

Decision for dispute CAC-UDRP-104448

Case number	CAC-UDRP-104448
Time of filing	2022-03-28 09:26:14
Domain names	boursoramaactivationmiseajour.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	BOURSORAMA SA
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	Gazo
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks with the word part <BOURSORAMA>, such as the European Union trademark n° 1758614 registered on October 19, 2001 and duly renewed for classes 09, 16, 35, 36, 38, 41 and 42. Further the French Registration for <BOURSORAMA> no. 98723359 registered on March 13, 1998 and duly renewed for classes 09, 16, 35, 36, 38 and 42.

The Complainant also owns a number of domain names, including the same company name BOURSORAMA, such as the domain names <boursorama.com>, registered since March 1, 1998, and <boursoramabanque.com>, registered since May 26, 2005.

The disputed domain name was registered on March 22, 2022 and resolves to a login page copying the Complainant's official customer access.

FACTUAL BACKGROUND

Founded in 1995, Boursorama, the Complainant, is one of the very first online financial platforms in Europe. One of the earliest

of the emerging e-commerce providers, it enjoyed substantial growth due to its continuous expansion and grew into a pioneer and market leader in its three core businesses: online brokerage, financial information on the Internet and online banking. Today in France, Boursorama is one of the leading online banking provider.

The Complainant assumes that the disputed domain name is confusingly similar to its registered trademark "BOURSORAMA" as the disputed domain name contains the Complainant's trademark in its entirety. The mere addition of the suffix "ACTIVATION" "MISE " A" JOUR" after the word "BOURSORAMA" does not alter the finding of similarity between the signs. Boursorama is the distinctive part of the disputed domain name. The other word parts are all generic and building a sentence in correct linguistical order how it is spoken in French. Translated it meant about updated data of the Complainant.

Furthermore, according with the Complainant's statement, the Respondent lacks rights or legitimate interest in the disputed domain name since the Respondent is not affiliated with it nor authorized by it in any way and the Complainant does not carry out any activity for, nor has any business with, the Respondent.

The Complainant also owns the domain name
<boursorama.com>.

The Complainant also contends that the website in relation with the disputed domain name directs to a look like costumer login page of Complainants costumers. He argues that this clear phishing action may be evidence of bad faith registration and use.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Paragraph 4(a) of the Policy provides that to obtain the transfer of the domain name, the Complainant must prove that each of the following elements is present:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

It is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP". Please see WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin.

Here it is evident that the disputed domain name is confusingly similar to Complainants registered trademark. <BOURSORAMA> as the disputed domain name contains the Complainant's trademark in its entirety. The mere addition of the following word parts in French language "ACTIVATION", "MISE", "A", JOUR" after the word "BOURSORAMA" does not alter the finding of similarity between the signs. Boursorama is the distinctive part of the disputed domain name. The other word parts are all generic and building a sentence in correct linguistical order how it is spoken in French. Translated it meant about updated data of the Complainant.

In addition, the Complainant has long standing rights in the mark "BOURSORAMA". The Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it is not commonly known under the disputed domain name and as the Respondent was never authorized or licensed or otherwise permitted by the Complainant to use the disputed domain name.

See for instance Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy § 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy § 4(c)(ii).").

See also Forum Case No. FA 1785301, Dell Inc. v. Devesh Tyagi ("Respondent replicates Complainant's website and displays Complainant's products. The Panel finds that this use is not a bona fide offering of goods or services under Policy §§ 4(c)(i) & (iii).").

The Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

See CAC Case No. 101131, BOURSORAMA v. PD Host Inc - Ken Thomas ("In the case at hand, the Respondent acted in bad faith especially because the Respondent, who has no connection with the well-known "BOURSORAMA" trademark, registered a domain name, which incorporates the well-known "BOURSORAMA" trademark and it is totally unrealistic to believe that the Respondent did not know the Complainant's trademark when registered the domain name <wwwboursorama.com>."); WIPO Case No. D2017-1463, Boursorama SA v. Estrade Nicolas ("Given the circumstances of the case including the evidence on record of the longstanding of use of the Complainant's trademark, and the distinctive nature of the mark BOURSORAMA, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark.").

See also Forum Case No. FA 1760517, Bittrex, Inc. v. Wuxi Yilian LLC (finding bad faith per Policy § 4(b)(iv) where "Respondent registered and uses the <lbittrex.com> domain name in bad faith by directing Internet users to a website that mimics Complainant's own website in order to confuse users into believing that Respondent is Complainant, or is otherwise affiliated or associated with Complainant."). Moreover, here it's the same situation.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **BOURSORAMA**ACTIVATIONMISEAJOUR.COM: Transferred

PANELLISTS

Name	Dr. jur. Harald von Herget
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DATE OF PANEL DECISION	2022-05-01
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Publish the Decision
